

### **REMARKS**

Claims 1 and 3-7 are pending. No new matter has been added by way of the present amendment. For instance, claims 1 and 7 have been amended so as to more clearly describe the nature of the natural rubber originating from natural rubber latex containing allergic proteins. Specifically, the allergic proteins are ones which cause Type I allergy. This amendment is supported by at least page 4, lines 4-9 of the present specification.

In view of the following remarks, Applicants respectfully request that the Examiner withdraw all rejections and allow the currently pending claims.

#### **Issues Under 35 U.S.C. § 103(a)**

The Examiner has rejected claim 1 under 35 U.S.C. § 103(a) as being obvious over Cornish, U.S. Patent No. 5,580,942 (hereafter Cornish '942) in view of Hamada et al. Japanese Patent Publication 2001-122906 (hereafter JP '906) as evidenced by Cornish et al., Enc. Poly Sci and Tech., John Wiley and Sons, (hereafter Cornish et al.)

Additionally, the Examiner has rejected claim 7 under 35 U.S.C. § 103(a) as being obvious over Cornish '942 in view of JP '906 as evidenced by Cornish et al.

Lastly, the Examiner has rejected claims 3-6 under 35 U.S.C. § 103(a) as being obvious over Cornish '942 in view of JP '906 as evidenced by Cornish et al. and further in view of Tanaka et al., U.S. Patent No. 6,355,407 (hereafter Tanaka '407).

Applicants respectfully traverse these rejections.

### The Present Invention

There are two pending independent claims, claim 1 and claim 7. Independent claim 1 relates to natural rubber which contains proteins having a molecular weight of more than 14 kDa and substantially no proteins specified by the bands of 14, 31 and 45 kDa by SDS-PAGE and having a nitrogen content of 0.02 to 0.30 % by weight of natural rubber, said natural rubber originating from natural rubber latex containing allergic proteins, which allergic proteins cause Type I allergy.

Independent claim 7 is directed to natural rubber which at least contains proteins having a molecular weight of 6.6 kDa to 200 kDa but substantially no proteins specified by the bands of 14, 31 and 45 kDa by SDS-PAGE and which has a nitrogen content of 0.02 to 0.30 % by weight of natural rubber, said natural rubber originating from natural rubber latex containing allergic proteins, which allergic proteins cause Type I allergy.

### Distinctions Between the Cited Art and the Present Invention

As discussed above, independent claims 1 and 7 relate to natural rubber having specific molecular weight proteins. These claims also require that the natural rubber originate from natural rubber latex containing allergic proteins that cause Type I allergy. These specific limitations are in contrast to Cornish '492. For instance, the Examiner's attention is directed to column 4, lines 39-64 of Cornish '942. Specifically, column 4, lines 46-54 of Cornish of '942 states that:

*[A] second study was conducted at the Rhode Island Hospital in Providence, R.I., and involved 59 people who had undergone multiple surgeries of various sorts and had developed latex allergy. The allergy in these 59 was confirmed to be of the type I, IgE-mediated type by RAST assays. The IgE-mediated allergy is the*

*serious form that can lead to life-threatening anaphylaxis. Skin tests demonstrated that, although all 59 patients were sensitive to Hevea latex, none of the patients showed any allergic response to either guayule or to F. elastica rubber particles.* (emphasis added).

Therefore, Applicants submit that it is clear that the rubber of Cornish '942 originates from guayule or *F.elastica* rubber particles and thus the natural rubber of Cornish '942 does not involve the case of Type I allergy. None of the other cited references are able to cure this deficiency of Cornish '942. Therefore, for at least this reason Applicants submit that the present claims define patentable subject matter.

Additionally, Applicants submit that those of skill in the art would not combine the references in the manner suggested by the Examiner. For example, Cornish '942 avoids using Hevea natural rubber as already discussed. See columns 1-4 of Cornish '942. However, the "natural rubber latex of a solid content of 60.2% (manufactured by Soctek Sendrian Bernhard, Malaysia)" employed in the Examples of is a natural rubber latex from Hevea tree. See also column 1 of Tanaka '407. This is in clear contrast to Cornish '942

Also, the "Soctex" used in the Examples of Hamada (JP '906) is also apparently natural rubber from the Hevea tree. This is strengthened by the fact that JP '906 is concerned with anaphylaxis (see [0004]).

It is therefore evident that both Tanaka '407 and JP '906 employ a rubber that originates from Hevea tree, thus, neither reference can be properly combined with Cornish '942. This is due to the fact that Cornish '942 intentionally avoids use of this type of tree. This represents an additional reason to support the argument that the Examiner has failed to present a valid *prima facie* case of obviousness.

In view of the above, Applicants respectfully request that the Examiner withdraw all rejections and allow the currently pending claims.

If the Examiner has any questions or comments please contact Craig A. McRobbie, Reg. No. 42,874 at the offices of Birch, Stewart, Kolasch & Birch, LLP.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.147; particularly, extension of time fees.

Dated: **FEB 17 2009**

Respectfully submitted,

By  #42874

Marc S. Weiner  
Registration No.: 32,181  
BIRCH, STEWART, KOLASCH & BIRCH, LLP  
8110 Gatehouse Road  
Suite 100 East  
P.O. Box 747  
Falls Church, Virginia 22040-0747  
(703) 205-8000  
Attorney for Applicant